



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

002352 QM31/1103
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/169,351	10/09/98	024	JACKSON, S	3738 11/03/00
First Named Applicant	CORBITT, 35 USC 154(b) term ext. = 0 Days.			

TITLE OF INVENTION BIOABSORBABLE BREAST IMPLANT

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2 P/3120-9	623-008.000	U52	UTILITY	YES	\$620.00	02/05/01

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PATENT AND TRADEMARK OFFICE COPY

Notice of Allowability

Application No.
09/169,351

Applicant(s)
Corbitt, Jr. et al.

Examiner
Suzette Jackson

Group Art Unit
3738



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to 10/23/00

☒ The allowed claim(s) is/are 1-3, 5-10, and 14-28

☐ The drawings filed on _____ are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☒ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☐ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. _____

☒ including changes required by the proposed drawing correction filed on Apr 19, 2000, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☒ Interview Summary, PTO-413

☒ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☐ Examiner's Statement of Reasons for Allowance

Art Unit: 3738

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. An extension of time under 37 CFR 1.136(a) is required to place this application in condition for allowance. During a telephone conversation conducted on Peter McGee, a requested an extension of time for 1 MONTH(S) and authorized the Commissioner to charge Deposit Account No. 15-0700 the required fee of \$55 (small entity) for this extension.

Authorization for this examiner's amendment was given in a telephone interview with Peter McGee on 31 October 2000.

2. The claims have been amended as follows:

Claim 10, line 7

-- wherein the resorbable material is elastically compressible, and the step of implanting includes the step of compressing the resorbable material. -- has been inserted after "material"

New Claim 26-28 has been added.

19

C

Art Unit: 3738

²²26. A method for replacing excised human breast tissue with an implant comprising the steps of:

forming a cavity having surrounding tissue within a breast;

forming the implant entirely of resorbable material and sizing the implant to occupy the cavity; and

implanting the implant in the cavity, the implant supporting the surrounding tissue and allowing for in-growth of fibrous tissue into and replacing the resorbable material, wherein the resorbable material is formed from a self-expanding foam and the step of implanting is performed by injection of the self-expanding foam.

²³27. The method of claim ²²26, further comprising the step of introducing into the implant at least one of a medicinal, therapeutic or diagnostic substance.

²⁴28. The method of claim ²²26, wherein the at least one substance is selected from the group consisting of radiation material, antibiotics, chemotherapies, cancer therapies, hemostatic material, hormone therapies, and radiographic markers.

Conclusion

✓ 3. Claims 4 and 11-13 have been officially canceled.

20

C

Art Unit: 3738

Allowable Subject Matter

4. Claims 1-3, 5-10, and 14-28 are now allowed.
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mares et al. 5,120,802 shows related material.
6. Any inquiry concerning this communication or earlier communication regarding this application should be directed to examiner Suzette Jackson at (703) 308-6516. If you are unable to reach me, please contact my supervisor, Vincent Millin, at (703) 308-1065. In a case requiring immediate assistance, please call (703) 308-0858 to reach the main operator for Sector 3700.


S. Jackson
31 October 2000

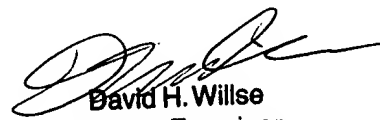
C

Art Unit: 3738

Allowable Subject Matter

4. Claims 1-3, 5-10, and 14-28 are now allowed.
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mares et al. 5,120,802 shows related material.
6. Any inquiry concerning this communication or earlier communication regarding this application should be directed to examiner Suzette Jackson at (703) 308-6516. If you are unable to reach me, please contact my supervisor, Vincent Millin, at (703) 308-1065. In a case requiring immediate assistance, please call (703) 308-0858 to reach the main operator for Sector 3700.


S. Jackson
31 October 2000


David H. Willse
Primary Examiner

C